IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 8100 of 1991

Between:
Smt.Radhabai w/o.late Narayana, 50 years, Hyderabad.

... PETITIONER

AND

1) The General Manager, India Government Mint, Post Bag No.14, Hyderabad – 500 004.
2) Smt.Lalitabai, Sweeper, H.No.6-3-10002, Somajiguda, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or order or direction directing the 1st respondent to pay the entire compensation of my husband late Sri Narayana, T.N.446, to me by following the judgment and decree passed in O.S.No.404 of 1983 on the file of the Court of the X Assistant Judge, City Civil Court, Hyderabd, as affirmed in A.S.No.22 of 1988 on the file of the Court of Additional Chief Judge, City Civil Court, Hyderabad, and to pass such other or further orders as this Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr.T.Bali Reddy

Counsel for the Respondent No.1: Mr.A. Rajashekar Reddy (Standing Counsel for Central Government)

Counsel for Respondent No.2: Mr.Milind G. Gokhale.

The Court made the following:

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Oral Order:

The petitioner is the wife of a deceased employee by name N. Narayana, who died in harness on 23-7-1978, while working as a Maistri in the first respondent organization. After the death of her husband, she made an application to the respondents to treat the second respondent also as the wife of her late husband and to give compassionate appointment to the second respondent, as she is eligible to get employment. Treating the said application as the consent of the petitioner, the first respondent treated the same as also consent for payment of pension. The first respondent divided the pension and is making the pension payment equally to the petitioner and the second respondent. Subsequently the second respondent was appointed as a Sweeper in the office of the first respondent. Later, the second respondent deserted all the children and the petitioner is taking care of the children with only half of the pension. The petitioner filed O.S.No.404 of 1983 on the file of the X Assistant Judge, City Civil Court, Hyderabad for a declaration that the second respondent is not the wife of the deceased Narayana and she is not entitled for any benefit accrued on account of the death of late Narayana. The suit was decreed on 20-8-1987. The appeal preferred by the second respondent covered by A.S.No.22 of 1988 on the file of the Additional Chief Judge, City Civil Court, Hyderabd was also dismissed on 17-8-1989. Pursuant to the judgment of the Civil Court, the petitioner issued a legal notice to

the first respondent demanding that she is entitled for the entire pension of her late husband. The first respondent gave a reply to the petitioner mentioning that the office cannot act on the decree of declaration given by the Court. The petitioner therefore approached this Court through this writ petition seeking a direction to the first respondent to pay the entire pension amount to her on account of the death of her husband late Narayana by following the judgment and decree of the Civil Court in O.S.No.404 of 1983.

During the course of arguments, it is submitted that with the consent of the petitioner, the second respondent was provided employment on compassionate grounds. The learned counsel for the petitioner represented that there was an understanding between the parties to the effect that the petitioner shall get the entire pension amount and the second respondent shall enjoy the benefit of the compassionate appointment.

The decree of the Civil Court became final on account of the dismissal of the appeal preferred by the second respondent, therefore, there is every justification for the petitioner to approach this Court seeking a direction to the first respondent to pay the entire pension amount to her as per the decree of the Civil Court, without giving any share to the second respondent. The second respondent is also present in the Court and when ascertained through her counsel, she represented that she has no objection for passing an order as per the decree of the Civil Court entitling the petitioner for the entire pension amount.

In the light of the above circumstances, the writ petition is allowed directing the first respondent to make payment of the entire pension amount to the petitioner from October 2004 without giving

any share to the second respondent. No costs.

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(Dr.G. Yethirajulu, J)

14th September 2004

svs

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Tuesday, the 14th day September Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) The General Manager, India Government Mint, Post Bag No.14, Hyderabad – 500 004.
2) 2 CD copies